



STATUTORY INSTRUMENTS.

S.I. No. 597 of 2014



CIRCUIT COURT RULES (LUGANO CONVENTION AND
MAINTENANCE REGULATION) 2014

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CIRCUIT COURT RULES (LUGANO CONVENTION AND
MAINTENANCE REGULATION) 2014

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936, by virtue of the powers conferred on us by section 66 of the Courts of Justice Act 1924 and section 70 of the Courts of Justice Act 1936, (as applied by section 48 of the Courts (Supplemental Provisions) Act 1961) and section 27 of the Courts (Supplemental Provisions) Act 1961, Regulation 3 of the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972), and of all other powers enabling us in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the annexed Rules of Court.

Dated 25th day of November 2013

(Signed): RAYMOND GROARKE
(Chairman of the Circuit Court Rules Committee)

Alison Lindsay
Tony Hunt
David Dodd
Gerard J. Doherty
Fiona Duffy Coady
Noel Rubotham
Patricia Casey

I concur in the making of the above Rules of Court.

Dated this 18th day of December, 2014

Signed: FRANCES FITZGERALD,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 2nd January, 2015.*

S.I. No. 597 of 2014

CIRCUIT COURT RULES (LUGANO CONVENTION AND
MAINTENANCE REGULATION) 2014

1. (1) These Rules, which shall come into operation on the 19th day of December 2014, may be cited as the Circuit Court Rules (Lugano Convention and Maintenance Regulation) 2014.

(2) These Rules shall be construed together with the Circuit Court Rules.

(3) The Circuit Court Rules as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2014.

2. The “Interpretation of Terms” provisions of the Circuit Court Rules are amended:

(i) by the substitution therein for the definition of “domicile” at paragraph 9 of the following—

“9. “domicile” is to be determined in accordance with the provisions of Section 15 of the 1998 Act and Articles 52 and 53 of the 1968 Convention, or as the case may be, the provisions of Articles 59 and 60 of either Council Regulation (EC) No 44/2001 or the Lugano Convention.”;

(ii) by the substitution therein for the definitions at paragraphs 22 to 26 inclusive of the following paragraphs as paragraphs 22 to 29 inclusive—

“22. The “Courts Service” means the Courts Service established by the Courts Service Act 1998.

23. “1998 Act” means the Jurisdiction of Courts and Enforcement of Judgments Act 1998.

24. “1968 Convention” means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters (including the Protocol annexed to the Convention) signed at Brussels on 27 September 1968, and is to be construed in accordance with Section 2 of the 1998 Act.

25. “Council Regulation (EC) No 44/2001” means Council Regulation (EC) No. 44/2001 of 22 December 2000, (OJ L 12 of 16 January 2001 and L 307/28 of 24 November 2001) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

26. “Regulation 2201/2003” means Council Regulation (EC) No 2201/2003 of 27 November 2003 (OJ L 338/1) concerning jurisdiction and the recognition and enforcement of judgments

in matrimonial matters and matters of parental responsibility, and, where the context so admits or requires, shall include reference to Council Regulation (EC) No 1347/2000 of 29 May 2000 (OJ L 160/22) on jurisdiction and the recognition of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses.

27. The “Maintenance Regulation” means Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

28. The “Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters signed at Lugano on 30 October 2007 and concluded on behalf of the European Community pursuant to Council Decision 2009/430/EC and the Protocols and Annexes thereto (the text of which, in the English language, is set out in the Tenth Schedule to the Jurisdiction of Courts and Enforcement of Judgments Act 1998).

29. References to any Regulation, Directive, Decision or Framework Decision adopted by the Council of the European Union, whether or not jointly with any other institution of the European Union, shall (save where any such amendment or extension does not have force of law in the State) be deemed to be references to such Regulation, Directive, Decision or Framework Decision as amended, extended or applied from time to time, and, where any subsequent Regulation, Directive, Decision or Framework Decision repealing such Regulation, Directive, Decision or Framework Decision expressly so provides, to a subsequent Regulation, Directive, Decision or Framework Decision.”.

3. The Circuit Court Rules are amended:

- (i) by the substitution for paragraphs (j) and (k) of Order 2 of the following paragraphs:

“(j) Subject to Chapter II of Council Regulation (EC) No 44/2001 or, as the case may be, to Title II of the Lugano Convention, the jurisdiction of the Court in proceedings that may be instituted in the State by virtue of Article 2, 9(1)(a), 12, 16, 19(1) or 20 or the proviso to Article 22(1) of Council Regulation (EC) No 44/2001 or, as the case may be, of the Lugano Convention, shall be exercised by a judge of the Court for the time being assigned to the circuit where the defendant, or one of the defendants, ordinarily

resides or carries on any profession, business or occupation.

- (k) The jurisdiction of the Court relating to proceedings that may be instituted in the State by virtue of Article 9(1)(b) or 16 of Council Regulation (EC) No 44/2001 or, as the case may be, of the Lugano Convention, by a plaintiff domiciled in the State may be exercised by a judge of the Court for the time being assigned to the circuit in which the plaintiff or one of the plaintiffs ordinarily resides or carries on any profession, business or occupation.”;

- (ii) by the substitution for rule 10 of Order 5 of the following rule:

“10. Where proceedings are commenced in the Court on the basis of jurisdiction derived from:

- (i) Council Regulation (EC) No 44/2001 as applied by the European Communities (Civil and Commercial Judgment) Regulations 2002 (S.I. No. 52 of 2002), or
- (ii) the Lugano Convention as applied by the 1998 Act, or
- (iii) the 1968 Convention as applied by the 1998 Act, or
- (iv) Regulation 2201/2003 or, as the case may be,
- (v) the Maintenance Regulation

the Civil Bill shall:

- (a) before issue be indorsed with a statement that the Court has power under:
 - (i) Council Regulation (EC) No 44/2001 as applied by the European Communities (Civil and Commercial Judgment) Regulations 2002, or
 - (ii) the Lugano Convention as applied by the 1998 Act, or
 - (iii) the 1968 Convention as applied by the 1998 Act, or
 - (iv) Regulation 2201/2003 or, as the case may be,
 - (v) the Maintenance Regulation,

to hear and determine the action, cause or matter, and specifying the particular provision of:

- (i) Council Regulation (EC) No 44/2001, the Lugano Convention, Regulation 2201/2003 or, as the case may be, the Maintenance Regulation under which the Court has power to hear and determine the action, cause or matter, or
 - (ii) the 1968 Convention under which the Court should assume jurisdiction; and
- (b) contain a statement that no proceedings between the parties concerning the same cause of action is pending between the parties in another Member State of the European Union or, as the case may be, Contracting State of the Convention concerned; and
- (c) contain a statement of the facts which are relied upon to show jurisdiction and venue.”, and
- (iii) by the substitution for Orders 14 and 14A of the Orders set out in Schedule 1;
- (iv) by the substitution for the title of Order 14B of the following title:
- “Order 14B
- Service in EU Member States (including the State) of judicial and extra-judicial documents”;
- (v) by the insertion in each of paragraphs (d) and (e) of rule 2 of Order 61 of “or decision” immediately after the word “judgment” where it appears in those paragraphs, and
- (vi) by the substitution for Order 61A of the Order set out in Schedule 2.

4. The Form numbered 5A in Schedule 3 shall be substituted for the form bearing the like number in the Schedule of Forms annexed to the Circuit Court Rules.

5. The Forms numbered 40A and 40B in Schedule 3 shall be substituted, respectively, for the forms bearing the like numbers in the Schedule of Forms annexed to the Circuit Court Rules.

6. The Forms numbered 40C and 40D in Schedule 3 shall be inserted consecutively in the Schedule of Forms aforementioned immediately after Form 40B.

Schedule 1

“Order 14

SERVICE OUT OF THE JURISDICTION UNDER THE 1998 ACT, COUNCIL REGULATION (EC) No 44/2001 OR THE LUGANO CONVENTION

1. Notwithstanding the provisions of Order 13, service of a Civil Bill or notice thereof out of the jurisdiction is permissible without the leave of the Court if it complies with the following conditions:

(i) the claim made by the Civil Bill is one which by virtue of:

(a) Council Regulation (EC) No 44/2001 as applied by the European Communities (Civil and Commercial Judgment) Regulations 2002 (S.I. No. 52 of 2002), or

(b) the Lugano Convention as applied by the 1998 Act, or

(c) the 1968 Convention as applied by the 1998 Act,

the Court has power to hear and determine; and

(ii) no proceedings between the parties concerning the same cause of action is pending between the parties in another Member State of the European Union or, as the case may be, Contracting State of the Convention concerned; and

(iii) either—

(a) the defendant or other person to be served is domiciled in Ireland or in any other Member State of the European Union or, as the case may be, Contracting State of the Convention concerned, or

(b) the proceedings commenced by the Civil Bill are proceedings to which the provisions of (I) Article 16 of the 1968 Convention or (II) Article 22 of Council Regulation (EC) No 44/2001 or (III) Article 22 of the Lugano Convention, concerning exclusive jurisdiction, apply, or

(c) the defendant or other party to be served is a party to an agreement conferring jurisdiction to which the provisions of (I) Article 17 of the 1968 Convention or (II) Article 23 of Council Regulation (EC) No 44/2001 or (III) Article 23 of the Lugano Convention, concerning prorogation of jurisdiction, apply.

2. Where the person to be served is not a citizen of Ireland, notice of the document, and not the document itself, is to be served on him.

3. Service of an originating document (or notice of an originating document) to which this Order applies may be:

- (a) in accordance with Order 14B, or
- (b) where service is effected in a state which is party to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters done at the Hague on the 15 November 1965, but which is not a Member State of the European Union in which the Regulation referred to in Order 14B, rule 1 is in force, by a method permitted in accordance with that Convention, or
- (c) by a method which is compatible with the law of the state in which service is to be effected, or
- (d) on a defendant or his legal representative in a manner which has been agreed or consented to in writing by the defendant or his legal representative, or
- (e) where a defendant is present within the jurisdiction, personally on that defendant in accordance with Order 11, rule 6, or
- (f) on a solicitor who has undertaken to accept service, in accordance with Order 11, rule 10.

4. Where a Civil Bill or notice thereof is to be served out of the State under rule 1, the time to be inserted therein within which the person to be served shall enter an appearance shall be—

- (i) five weeks where a Civil Bill or notice thereof is to be served in the European territory of another Member State of the European Union or, as the case may be, Contracting State of the Convention concerned, or
- (ii) six weeks where a Civil Bill or notice thereof is to be served in any non-European territory of another Member State of the European Union or, as the case may be, Contracting State of the Convention concerned.

The time for entering an appearance provided in Order 15, rule 2 shall be modified accordingly.

5. (1) Where a person served desires to contest the jurisdiction of the Court to hear and determine the claim under the provisions of the 1968 Convention, Council Regulation (EC) No 44/2001 or the Lugano Convention, he may enter an appearance solely for the purpose of contesting jurisdiction, in the Form 5A.

(2) Any person who desires to contest jurisdiction shall deliver a Defence stating that he contests the jurisdiction of the Court, under the provisions of the 1968 Convention, Council Regulation (EC) No 44/2001 or, as the case may be, the Lugano Convention and shall set out therein the grounds upon which jurisdiction is contested. In such cases the appearance which has been

entered shall be deemed for the purposes of Article 18 of the 1968 Convention or Article 24 of either Council Regulation (EC) No 44/2001 or the Lugano Convention to have been entered solely to contest jurisdiction, notwithstanding anything pleaded in the Defence which may go to the merits of the claim.

(3) Where a Defence has been delivered in which jurisdiction is contested, any party to the proceedings may apply to the Court by motion on notice grounded upon affidavit for determination of the question of jurisdiction as a preliminary issue, or the matter may be set down for trial. The Judge may determine the question of jurisdiction on affidavit, or may direct the trial of an issue, with or without pleadings, as he may see fit, and may give such direction in relation thereto as he may see fit.

(4) Any person who desires to contest jurisdiction in proceedings in which there is no provision in these Rules for the delivery of a Defence, shall at the soonest opportunity apply to the Court on fourteen days' notice to the other party or parties for an order declining jurisdiction and the Judge may determine the question of jurisdiction on affidavit, or may direct the trial of a preliminary issue, with or without pleadings, or may direct that the question of jurisdiction be determined at the hearing of the substantive matter, as he may see fit, and may give such directions in relation thereto as he may see fit.

6. Where a person served with a Civil Bill outside the State pursuant to rule 1 has entered an Appearance, the time within which a Defence should be delivered by him shall be 28 days from the date of entry of his Appearance, or where an application has been brought for an order declining jurisdiction in accordance with rule 5, the time shall be 28 days from the date of determination of that application, unless the Court otherwise orders.

7. While the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters annexed to Council Decision No 2005/790/EC of 20 September 2005 (OJ L 299/61 of 16 November 2005) signed at Brussels on 19 October 2005 and approved on behalf of the European Community by Council Decision No 2006/325/EC of 27 April 2006 (OJ L 120/22 of 5 May 2006) is for the time being in force, notwithstanding any other provision of these Rules to the contrary, the provisions of these Rules which relate to Regulation No 44/2001 shall apply in relation to the Kingdom of Denmark, to the extent permitted, and subject to any modifications made necessary, by that Agreement, and the provisions of these Rules which relate to the 1968 Convention shall not apply.

Order 14A

Service out of the Jurisdiction under:
Council Regulation (EC) No 2201/2003 (Matrimonial Matters and Matters
of Parental Responsibility)
Council Regulation (EC) No 4/2009 (Maintenance Obligations)

1. For the purpose of this Order:

“domicile” is to be determined in accordance with the provisions of Article 3(2) of Regulation 2201/2003;

“Member State” means:

- (a) in the case of proceedings to which Regulation 2201/2003 applies, a Member State of the European Union other than the State or Denmark, or
- (b) in the case of proceedings to which the Maintenance Regulation applies, a Member State of the European Union other than the State;

“resident” or “habitually resident” is to be determined, in proceedings to which Regulation 2201/2003 applies, in accordance with the provisions of Article 3 of Regulation No 2201/2003, or in proceedings to which the Maintenance Regulation applies, in accordance with the provisions of Chapter II of the Maintenance Regulation.

2. The provisions of this Order apply to proceedings governed by Article 1 of Council Regulation (EC) No 2201/2003 or, as the case may be, by Chapter II of the Maintenance Regulation and, so far as practicable and applicable, to any Order, Motion or Notice in such proceedings.

3. (1) Service of any originating document or notice of an originating document out of the jurisdiction is permissible in proceedings to which Regulation 2201/2003 applies without leave of the Court, if, but only if, it complies with the following conditions:

- (i) the claim made by the originating document is one which, by virtue of Regulation 2201/2003, the Court has power to hear and determine; and
- (ii) no proceedings
 - (a) relating to divorce, legal separation or marriage annulment between the same parties or, as the case may be,
 - (b) relating to parental responsibility relating to the same child and involving the same cause of action,

are pending in another Member State.

(2) Service of any originating document or notice of an originating document out of the jurisdiction is permissible in proceedings to which the Maintenance Regulation applies without leave of the Court, if, but only if, it complies with the following conditions:

- (i) the claim made by the originating document is one which, by virtue of the Maintenance Regulation, the Court has power to hear and determine; and
- (ii) no proceedings relating to maintenance obligations arising from a family relationship, parentage, marriage or affinity between the same parties and involving the same cause of action are pending in another Member State.

4. Where an originating document or notice of an originating document is to be served out of the jurisdiction under rule 3, the time to be inserted in the said originating document or notice of an originating document within which the Respondent served therewith shall enter an Appearance (including an Appearance entered solely to contest jurisdiction) shall be:

- (i) five weeks after the service of the originating document or notice of an originating document, exclusive of the day of service where an originating document or notice of an originating document is to be served in the European territory of another Member State, or
- (ii) six weeks after the service of the originating document or notice of an originating document, exclusive of the day of service where an originating document or notice of an originating document is to be served in any non-European territory of a Member State.

5. Where two or more respondents are parties to proceedings to which Regulation 2201/2003 applies, but not every such respondent is domiciled in a Member State, the rules as to jurisdiction in Regulation 2201/2003 shall apply.

6. Where the Respondent is not, or is not known or believed to be a citizen of Ireland, notice of an originating document, and not the originating document itself, shall be served upon him.

7. Subject to the provisions of this Order, notice in lieu of originating document shall be given in the manner in which originating documents are served.

8. Where a Respondent wishes to enter an Appearance to contest jurisdiction of the Court, he or she may do so by entering an Appearance in accordance with the provisions of Form 5A of the Schedule of Forms.

9. (1) To the extent that any rules contained in any other Order of these Rules are inconsistent with the provisions of Regulation 2201/2003 or of this

Order, the provisions of Regulation 2201/2003 and of this Order shall prevail in relation to any proceedings to which Regulation 2201/2003 applies.

(2) To the extent that any rules contained in any other Order of these Rules are inconsistent with the provisions of the Maintenance Regulation or of this Order, the provisions of the Maintenance Regulation and of this Order shall prevail in relation to any proceedings to which the Maintenance Regulation applies.”

Schedule 2

“Order 61A

Jurisdiction and the Recognition and Enforcement of Judgments and Decisions of the Circuit Court in Civil or Commercial Matters

1. Order 61 of these Rules shall apply to the provision of documentation pursuant to Article 54 or Article 58 of Council Regulation (EC) No 44/2001, Article 54 or Article 58 of the Lugano Convention, Article 39 of Council Regulation (EC) No 2201/2003 and Articles 20(1) and 48(3) of the Maintenance Regulation, and an application for such documentation shall be made in like manner as an application under Order 61, rule 2 save that the Affidavit grounding the application shall:

- (i) state the particular provision or provisions of the Regulations aforementioned or of the Lugano Convention by which the Court assumed jurisdiction,
- (ii) provide the other details required in paragraphs (a), (b), (d), (e), (f) and (g) of rule 2 of Order 61,
- (iii) give such further information not provided in accordance in sub-paragraph (ii) as is required to be provided in Form 40A, 40B, 40C or 40D (as the case may be) as is within the applicant’s knowledge, in the sequence in which the information appears in the Form concerned.

2. (1) The certificate provided pursuant to Article 54 or Article 58 of Council Regulation (EC) No 44/2001 or, as the case may be, Article 54 or Article 58 of the Lugano Convention, shall be in accordance with Form 40A in the Schedule of Forms.

(2) The certificate provided pursuant to Article 39 of Council Regulation (EC) No 2201/2003 shall be in accordance with Form 40B or Form 40C, as appropriate, in the Schedule of Forms and shall be signed by the County Registrar and shall be authenticated by the seal of the Court and have annexed to it a certified true copy of the Civil Bill or other originating document by which the proceedings were commenced.

(3) The extract provided pursuant to Articles 20(1) and 48(3) of the Maintenance Regulation shall be in accordance with Form 40D in the Schedule of Forms.

3. In the case of a judgment in default of appearance, the Affidavit grounding the application under rule 1 shall, in addition, exhibit a certified true copy of the affidavit or document, with any exhibit thereto, which establishes that notice of the institution of proceedings was served on the person in default and the County Registrar or person authorised in that behalf shall certify that the said document is a true copy of the document relied upon by the Court on giving judgment.”

Schedule 3

FORM 5A

AN CHÚIRT *TEAGHLAIGH CHUARDA

THE CIRCUIT *FAMILY COURT

CIRCUIT

COUNTY OF

IN THE MATTER OF

*the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters signed at Brussels on 27 September 1968

*Council Regulation (EC) No 44/2001

*the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters signed at Lugano on 30 October 2007

*Council Regulation (EC) No 2201/2003

*Council Regulation (EC) No 4/2009

AND IN THE MATTER OF {insert any other applicable legislation}.

BETWEEN

..... *Plaintiff/*Applicant

AND

..... *Defendant/*Respondent

APPEARANCE CONTESTING JURISDICTION

1. To the County Registrar

At

I request you will enter an Appearance herein on behalf of the *Defendant/*Respondent to the proceedings served upon him on20.... for the purpose of contesting the jurisdiction of this Honourable Court to hear and determine the within proceedings.

Dated this.... day of20....

Signed:.....

*Defendant/*Respondent/Solicitors for the *Defendant/*Respondent

2. To the *Plaintiff/*Applicant /Solicitors for the *Plaintiff/*Applicant

The Appearance mentioned above was this day lodged by hand / sent by post and the said *Defendant/*Respondent intends to contest the jurisdiction of this Honourable Court to hear and determine the within proceedings.

Dated this.... day of20....

Signed:.....

*Defendant/*Respondent/Solicitors for the *Defendant/*Respondent

*delete where inapplicable

FORM 40A

CERTIFICATE REFERRED TO IN ARTICLES 54 AND 58 OF
*COUNCIL REGULATION (EC) No 44/2001/*THE LUGANO
CONVENTION
ON JURISDICTION AND THE RECOGNITION AND ENFORCEMENT
OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS

(English, inglés, anglais, inglese,.)

1. Member State of origin

2. Court or competent authority issuing the certificate
 - 2.1. Name
 - 2.2. Address
 - 2.3. Tel./fax/e-mail

3. Court which delivered the judgment/approved the court settlement (*)
 - 3.1. Type of court
 - 3.2. Place of court

4. Judgment/court settlement (*)
 - 4.1. Date
 - 4.2. Reference number
 - 4.3. The parties to the judgment/court settlement (*)
 - 4.3.1. Name(s) of plaintiff(s)
 - 4.3.2. Name(s) of defendant(s)
 - 4.3.3. Name(s) of other party(ies), if any
 - 4.4. Date of service of the document instituting the proceedings where judgment was given in default of appearance
 - 4.5. Text of the judgment/court settlement (*) as annexed to this certificate

5. Names of parties to whom legal aid has been granted.

The judgment/court settlement (*) is enforceable in the *Member State/*State of origin (Articles 38 and 58 of the *Regulation/*Convention) against:

Name:

Done at....., date.....

Signature.....

County Registrar/person authorised

(*) Delete as appropriate.

FORM 40B

CERTIFICATE REFERRED TO IN ARTICLE 39 OF COUNCIL
REGULATION (EC) NO 2201/2003 CONCERNING JUDGMENTS IN
MATRIMONIAL MATTERS*

1. Member State of origin

2. Court or authority issuing the certificate
 - 2.1. Name
 - 2.2. Address
 - 2.3. Tel./fax/e-mail

3. Marriage
 - 3.1. Wife
 - 3.1.1. Full name
 - 3.1.2. Address
 - 3.1.3. Country and place of birth
 - 3.1.4. Date of birth
 - 3.2. Husband
 - 3.2.1. Full name
 - 3.2.2. Address
 - 3.2.3. Country and place of birth
 - 3.2.4. Date of birth
 - 3.3. Country, place (where available) and date of marriage
 - 3.3.1. Country of marriage
 - 3.3.2. Place of marriage (where available)
 - 3.3.3. Date of marriage

4. Court which delivered the judgment
 - 4.1. Name of Court

4.2. Place of Court

5. Judgment

5.1. Date

5.2. Reference number

5.3. Type of judgment

5.3.1. Divorce

5.3.2. Marriage annulment

5.3.3. Legal separation

5.4. Was the judgment given in default of appearance-

5.4.1. No

5.4.2. Yes **

6. Names of parties to whom legal aid has been granted

7. Is the judgment subject to further appeal under the law of the Member State of origin?

7.1. No

7.2. Yes

8. Date of legal effect in the Member State where the judgment was given

8.1. Divorce

8.2. Legal separation

Done at....., date.....

Signature

County Registrar/person authorised

*Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

**Documents referred to in Article 37(2) must be attached.

FORM 40C

CERTIFICATE REFERRED TO IN ARTICLE 39 OF COUNCIL
REGULATION (EC) NO 2201/2003 CONCERNING JUDGMENTS ON
PARENTAL RESPONSIBILITY*

1. Member State of origin

2. Court or authority issuing the certificate
 - 2.1. Name
 - 2.2. Address
 - 2.3. Tel./Fax/e-mail

3. Person(s) with rights of access
 - 3.1. Full name
 - 3.2. Address
 - 3.3. Date and place of birth (where available)

4. Holders of parental responsibility other than those mentioned under 3**
 - 4.1.
 - 4.1.1. Full name
 - 4.1.2. Address
 - 4.1.3. Date and place of birth (where available)
 - 4.2.
 - 4.2.1. Full Name
 - 4.2.2. Address
 - 4.2.3. Date and place of birth (where available)
 - 4.3.
 - 4.3.1. Full name
 - 4.3.2. Address
 - 4.3.3. Date and place of birth (where available)

5. Court which delivered the judgment

5.1. Name of Court

5.2. Place of Court

6. Judgment

6.1. Date

6.2. Reference number

6.3. Was the judgment given in default of appearance?

6.3.1. No

6.3.2. Yes ***

7. Children who are covered by the judgment *****

7.1. Full name and date of birth

7.2. Full name and date of birth

7.3. Full name and date of birth

7.4. Full name and date of birth

8. Names of parties to whom legal aid has been granted

9. Attestation of enforceability and service

9.1. Is the judgment enforceable according to the law of the Member State of origin?

9.1.1. Yes

9.1.2. No

9.2. Has the judgment been served on the party against whom enforcement is sought?

9.2.1. Yes

9.2.1.1. Full name of the party

9.2.1.2. Address

9.2.1.3. Date of service

9.2.2. No

10. Specific information on judgments on rights of access where ‘exequatur’ is requested under Article 28. This possibility is foreseen in Article 40(2).

10.1. Practical arrangements for exercise of rights of access (to the extent stated in the judgment)

10.1.1. Date and time

10.1.1.1. Start

10.1.1.2. End

10.1.2. Place

10.1.3. Specific obligations on holders of parental responsibility

10.1.4. Specific obligations on the person with right of access

10.1.5. Any restrictions attached to the exercise of rights of access

11. Specific information for judgments on the return of the child in cases where the ‘exequatur’ procedure is requested under Article 28. This possibility is foreseen under Article 40(2).

11.1. The judgment entails the return of the child

11.2. Person to whom the child is to be returned (to the extent stated in the judgment)

11.2.1. Full name

11.2.2 Address

Done at....., date.....

Signature
County Registrar/person authorised

* Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

** In cases of joint custody, a person already mentioned under item 3 may also be mentioned under item 4.

*** Documents referred to in Article 37(2) must be attached.

**** If more than four children are covered, use a second form.

FORM 40D

EXTRACT FROM A DECISION/COURT SETTLEMENT IN MATTERS RELATING TO MAINTENANCE OBLIGATIONS NOT SUBJECT TO PROCEEDINGS FOR RECOGNITION OR A DECLARATION OF ENFORCEABILITY

(Articles 20 and 48 of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations [1])

IMPORTANT

To be issued by the court of origin
To be issued only if the decision or court settlement is enforceable in the Member State of origin

Mention only information which is given in the decision or court settlement or of which the court of origin has been made aware

1. Nature of the document

Decision Court settlement

Date and reference number:.....

The decision/court settlement is recognised and enforceable in another Member State without any possibility of opposing its recognition and without the need for a declaration of enforceability (Articles 17 and 48 of Regulation (EC) No 4/2009).

2. Court of origin

2.1. Name: Circuit Court

2.2. Address:.....

2.2.1. Street and number/PO box:.....

2.2.2. Place and postal code:

2.2.3. Member State

Belgium Bulgaria Czech Republic Germany Estonia Ireland Greece Spain France Italy Cyprus Latvia Lithuania Luxembourg Hungary Malta Netherlands Austria Poland Portugal Romania Slovenia Slovakia Finland Sweden

2.3. Telephone/Fax/E-mail:

3. Claimant(s) [**] [***]

3.1. Person A

3.1.1. Surname and given name(s):

3.1.2. Date (dd/mm/yyyy) and place of birth:

3.1.3. Identity number or social security number:

3.1.4. Address:

3.1.4.1. Street and number/PO box:.....

3.1.4.2. Place and postal code:

3.1.4.3. Country:.....

3.1.5. Has benefited from

3.1.5.1. legal aid:

Yes No

3.1.5.2. exemption from costs and expenses:

Yes No

3.1.5.3. free proceedings before an administrative authority listed in Annex X of Regulation (EC) No 4/2009:

Yes No

3.2. Person B

3.2.1. Surname and given name(s):

3.2.2. Date (dd/mm/yyyy) and place of birth:

3.2.3. Identity number or social security number:

3.2.4. Address:

3.2.4.1. Street and number/PO box:.....

3.2.4.2. Place and postal code:

3.2.4.3. Country:

3.2.5. Has benefited from

3.2.5.1. legal aid:

Yes No

3.2.5.2. exemption from costs and expenses:

Yes No

3.2.5.3. free proceedings before an administrative authority listed in Annex X of Regulation (EC) No 4/2009:

Yes No

3.3. Person C

3.3.1. Surname and given name(s):

3.3.2. Date (dd/mm/yyyy) and place of birth:

3.3.3. Identity number or social security number:

3.3.4. Address:

3.3.4.1. Street and number/PO box:

3.3.4.2. Place and postal code:

3.3.4.3. Country:

3.3.5. Has benefited from

3.3.5.1. legal aid:

Yes No

3.3.5.2. exemption from costs and expenses:

Yes No

3.3.5.3. free proceedings before an administrative authority listed in Annex X of Regulation (EC) No 4/2009:

Yes No

4. Defendant(s) [**] [***]

4.1. Person A

4.1.1. Surname and given name(s):

4.1.2. Date (dd/mm/yyyy) and place of birth:

4.1.3. Identity number or social security number:

4.1.4. Address:

4.1.4.1. Street and number/PO box:

4.1.4.2. Place and postal code:

4.1.4.3. Country:

4.1.5. Has benefited from

4.1.5.1. legal aid:

Yes No

4.1.5.2. exemption from costs and expenses:

Yes No

4.1.5.3. free proceedings before an administrative authority listed in Annex X of Regulation (EC) No 4/2009:

Yes No

4.2. Person B

4.2.1. Surname and given name(s):

4.2.2. Date (dd/mm/yyyy) and place of birth:

4.2.3. Identity number or social security number:

4.2.4. Address:

4.2.4.1. Street and number/PO box:

4.2.4.2. Place and postal code:

4.2.4.3. Country:

4.2.5. Has benefited from

4.2.5.1. legal aid:

Yes No

4.2.5.2. exemption from costs and expenses:

Yes No

4.2.5.3. free proceedings before an administrative authority listed in Annex X of Regulation (EC) No 4/2009:

Yes No

4.3. Person C

4.3.1. Surname and given name(s):

4.3.2. Date (dd/mm/yyyy) and place of birth:

4.3.3. Identity number or social security number:

4.3.4. Address:

4.3.4.1. Street and number/PO box:

4.3.4.2. Place and postal code:

4.3.4.3. Country:

4.3.5. Has benefited from

4.3.5.1. legal aid:

Yes No

4.3.5.2. exemption from costs and expenses:

Yes No

4.3.5.3. free proceedings before an administrative authority listed in Annex X of Regulation (EC) No 4/2009:

Yes No

5. Terms of the decision/court settlement

5.1. Currency

Euro (EUR) Bulgarian lev (BGN) Czech koruna (CZK) Estonian kroon (EEK) Hungarian forint (HUF) Lithuanian litas (LTL) Latvian lats (LVL) Polish zloty (PLN) Romanian leu (RON) Swedish krona (SEK) Other (please specify ISO code): ...

5.2. Maintenance claim [****]

5.2.1. Maintenance claim A

5.2.1.1. The maintenance is to be paid

by (surname and given name(s))

to(surname and given name(s) of the person to whom the sum must actually be paid)

Person for whom maintenance is owed:

.....(surname and given name(s))

5.2.1.2. Amount to be paid in one sum

Period covered, where applicable:

(from date (dd/mm/yyyy) to date (dd/mm/yyyy) or event)

Due date: (dd/mm/yyyy)

Amount:

5.2.1.3. Amount to be paid in instalments

Due date (dd/mm/yyyy)	Amount

5.2.1.4. Sum to be paid regularly

Once a week

Once a month

Other (state frequency):.....

Amount:

From: (dd/mm/yyyy)

Due day/date:.....

If applicable, until (date (dd/mm/yyyy) or event):.....

If the maintenance claim is subject to indexation, please indicate how that indexation is to be calculated:

Indexation applicable as from (dd/mm/yyyy)

5.2.1.5. Amount due retroactively

Period covered: ((dd/mm/yyyy) to (dd/mm/yyyy))

Amount:

Form of payment:

5.2.1.6. Interest (if specified in the decision/court settlement)

If the maintenance claim is subject to interest, please indicate the rate:

Interest due as from: (dd/mm/yyyy)

5.2.1.7. Payment in kind (please specify):.....

5.2.1.8. Other form of payment (please specify):

5.2.2. Maintenance claim B

5.2.2.1. The maintenance is to be paid

by (surname and given name(s))

to (surname and given name(s) of the person to whom the sum must actually be paid)

Person for whom maintenance is owed:

..... (surname and given name(s))

5.2.2.2. Amount to be paid in one sum

Period covered, where applicable:

(from date (dd/mm/yyyy) to date (dd/mm/yyyy) or event)

Due date: (dd/mm/yyyy)

Amount:

5.2.2.3. Amount to be paid in instalments

Due date (dd/mm/yyyy)	Amount

5.2.2.4. Sum to be paid regularly

Once a week

Once a month

Other (state frequency):

Amount:

From: (dd/mm/yyyy)

Due day/date:

If applicable, until (date (dd/mm/yyyy) or event):

If the maintenance claim is subject to indexation, please indicate how that indexation is to be calculated:

Indexation applicable as from (dd/mm/yyyy)

5.2.2.5. Amount due retroactively

Period covered: ((dd/mm/yyyy) to (dd/mm/yyyy))

Amount:

Form of payment:

5.2.2.6. Interest (if specified in the decision/court settlement)

If the maintenance claim is subject to interest, please indicate the rate:

Interest due as from: (dd/mm/yyyy)

5.2.2.7. Payment in kind (please specify):

5.2.2.8. Other form of payment (please specify):

5.2.3. Maintenance claim C

5.2.3.1. The maintenance is to be paid

by (surname and given name(s))

to(surname and given name(s) of the person to whom the sum must actually be paid)

Person for whom maintenance is owed:

..... (surname and given name(s))

5.2.3.2. Amount to be paid in one sum

Period covered, where applicable:

(from date (dd/mm/yyyy) to date (dd/mm/yyyy) or event)

Due date: (dd/mm/yyyy)

Amount:

5.2.3.3. Amount to be paid in instalments

Due date (dd/mm/yyyy)	Amount

5.2.3.4. Sum to be paid regularly

Once a week

Once a month

Other (state frequency):

Amount:

From: (dd/mm/yyyy)

Due day/date:

If applicable, until (date (dd/mm/yyyy) or event):

If the maintenance claim is subject to indexation, please indicate how that indexation is to be calculated:

Indexation applicable as from: (dd/mm/yyyy)

5.2.3.5. Amount due retroactively

Period covered: ((dd/mm/yyyy) to (dd/mm/yyyy))

Amount:

Form of payment:

5.2.3.6. Interest (if specified in the decision/court settlement)

If the maintenance claim is subject to interest, please indicate the rate:

Interest due as from: (dd/mm/yyyy)

5.2.3.7. Payment in kind (please specify):

5.2.3.8. Other form of payment (please specify):

5.3. Costs and expenses

The decision/court settlement provides that

..... (surname and given name(s))

must pay the sum of

to (surname and given name(s)).

If additional pages have been attached, state the number of pages:

Done at: on: (dd/mm/yyyy)

Signature and/or stamp of the court of origin:

[1] OJ L 7, 10.1.2009, p. 1.

[**] If the parties are not the claimant or defendant in the decision/court settlement, indicate either of the parties as claimant or defendant.

[***] If the decision/court settlement concerns more than three claimants or three defendants, attach an additional sheet.

[****] If the decision/court settlement concerns more than three maintenance claims, attach an additional sheet.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Rules amend the Interpretation of Terms and certain Orders and forms of the Circuit Court Rules, to facilitate the operation of the 2007 Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and the European Communities (Maintenance) Regulations (S.I. No. 274/2011), giving effect to the Council Regulation (EC) 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (“the Maintenance Regulation”).

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
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